

Transcript Prepared by Clerk of the Legislature Transcribers Office

Floor Debate January 25, 2024

Rough Draft

ARCH: Good morning, ladies and gentlemen. Welcome to the George W Norris Legislative Chamber for the sixteenth day of the One Hundred Eighth Legislature, Second Session. Our chaplain for today is priest Doctor Phani Adidam from the Hindu temple in Omaha. Please rise.

CHAPLAIN PHANI ADIDAM: Namaste. Shobha. Nama. Push. Anima. That is January 25th, 2024. In this vibrant temple of democracy, we submit this prayer from regret in the name of all faiths and denominations. I shall first chant a line in my liturgical language of Sanskrit, and then follow it with a translation in English. Let us pray. sung a tap drum somewhere that, some woman see John at they Bob how come your way Saint John on opacity. May we move in harmony? Speak in one voice. Let our minds be in agreement. Samano mantra has submitted. Samani. Samana. Manohar. Sachi. Tamisha samana mantra. I began by summoning of all Harishchandra. Homi. May our motivation and inspiration be the same. That is. Well, first of all, may our hearts be the same with affection for all. May our mind be the same, full of pure thoughts of selflessness. And maybe I'll continue to increase each other's happiness together. Survey Shams was about to survey. Shanti. The power to survey. For power to survey mangalam. Power to Shanti Shanti, Shanti. He may there be well-being in all. May there be peace in all. May there be fulfillment in all. May there be auspiciousness in all. Peace. Peace. Peace. Amen. Jay, go to that, judiciary room. Namaste.

ARCH: I recognize Doctor-- Senator Hughes for the Pledge of Allegiance.

HUGHES: Please join me in the pledge. I pledge allegiance to the flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ARCH: Thank you. I call to order the sixteenth day of the One Hundred Eighth Legislature, Second Session. Senators, please record your presence. Roll call. Colleagues I would like to recognize Kranthi Adidam, the wife of the priest who gave the invocation this morning. She is in the back. Please rise and welcome her. Mr. Clerk, please record.

ASSISTANT CLERK: There is a quorum present, Mr. President.

ARCH: Thank you, Mr. Clerk. Are there any corrections for the Journal?

ASSISTANT CLERK: No corrections this morning.

ARCH: Thank you. Are there any messages, reports or announcements?

ASSISTANT CLERK: Mr. President, a new A bill, LB218A, offered by Senator Ibach. It's a bill for an act relating to appropriations to appropriate funds to carry out the provisions of LB218. An announcement that Senator Aguilar has chosen LB952 as his personal priority bill. And I have notice of committee hearings from the Revenue Committee for February 1 and 2. That's all I have at this time.

ARCH: Thank you, Mr. Clerk. We will now proceed to the first-- oh. Excuse me. Senator Albrecht would like to recognize Doctor Dave Hoelting from Pender, who's our family physician of the day under the balcony. Please rise and welcome Doctor Hoelting. We will now proceed to the first item on the agenda. Mr. Clerk.

ASSISTANT CLERK: Mr. President, LB184 offered by Senator John Cavanaugh. It's a bill for an act relating to juveniles to provide for inadmissibility of statements made by juveniles during proceedings to transfer cases to or from juvenile court; to eliminate obsolete provisions; repeal the original sections. The bill was introduced on January 9th of 2023, referred to the Judiciary Committee, reported to General File with committee amendments.

ARCH: Thank you, Mr. Clerk, Senator John Cavanaugh, you're welcome to open on your bill.

J. CAVANAUGH: Thank you, Mr. President. Thank you colleagues. Good morning. And LB184 is my priority bill. And we worked on it all last year to get to a compromise with-- between myself and the interested parties, which is the County Attorney's Association and law enforcement. So I think it might be-- the result of that compromise is actually the committee amendment, might be best to just go right to the committee amendment, we can have that conversation.

ARCH: Senator DeBoer, you are welcome to open on the committee amendment.

DeBOER: Thank you, Mr. President. LB184 was heard by the Judiciary Committee on February 15th, 2023. On May 31st, 2023, the committee voted 8-0 to adopt AM1834 and advance LB184 to General File. The amendment replaces the language of the original bill. Under the amendment, statements made by a juvenile to a psychiatrist, psychologist, therapist, or licensed mental health practitioner for

purposes of a motion to transfer a case to juvenile court are inadmissible in criminal and civil proceedings, except proceedings on the motion to transfer, disposition proceedings in juvenile court, a presentence investigation report in adult criminal court, or to impeach in a criminal trial or in juvenile court if the accused juvenile makes a materially inconsistent statement in court. At this time, I would yield the rest of my time to Senator John Cavanaugh so that he could explain further the committee amendment.

ARCH: Senator Cavanaugh, eight minutes, 50 seconds.

J. CAVANAUGH: Thank you, Mr. President. Thank you. Vice Chair DeBoer and I want to thank the members of the Judiciary Committee and in particular, Senator Bosn, for working on this compromise language with me and getting this bill into the shape that it is, which I think is-- makes it a much stronger bill than it was when it was originally introduced. And so, colleagues, LB184 is my priority bill, and as amended, it represents a great deal of work and compromise between me, law enforcement, the county attorneys and the Judiciary Committee to reach this agreement. LB184 provides that any statement made by a juvenile defendant to a mental health professional for the purposes of a juvenile transfer hearing, could only be used for that transfer hearing. The statement would generally be inadmissible in any other proceeding outside of the motion to transfer, with some exceptions. I want to take a step back and explain the issue we're seeking to address. In the criminal justice system. We have an adult court and a separate juvenile court. When a child is charged with a crime, the prosecutor has the discretion to file that charge in either adult court or juvenile court. If they file in juvenile court, then the case would proceed there. If, however, they file it in adult court, the lawyer for that child may seek to move that case to juvenile court. They file what is called a motion to transfer. The decision to move the case from adult court to juvenile court is up to the adult court judge. When the judge is making this decision, they consider a number of factors, including types of treatment available in juvenile court, the child's motivation for the offense, and other factors relating to the child in that case. In order to help answer these questions, the child is usually evaluated by a mental health professional prior to the hearing and the report-- the, the report the professional generates is offered for that hearing. This presents an issue for the child defendant because there's a pending criminal matter. Anything that child says may be used against them in court. The child is then usually advised not to speak to the mental health professional about the offense, or any related matters for

which they are in court. This matter-- this means the court gets an incomplete information for making their decision, and the purpose of the evaluation is not met. So how does LB184 fix this? LB184, as amended, provides that when a child is seeking a transfer and they are evaluated by a mental health professional, the statements the child makes to that mental health professional cannot be used against the child. There are specific exceptions to the statement-- when the statement can be used. Those exceptions are for proceedings relating to the motion to transfer; for disposition proceedings in juvenile court; or a pre-sentence investigation report in adult court. So both of those are for the purposes of sentencing. So we get the person evaluated, however the case ends up being resolved, we can use those reports to determine what is an appropriate sentence. And for the purs-- purpose of impeachment of a material inconsistent testimony, which means if the child later testifies in court and gives testimony inconsistent with what they said in the mental health-- to the mental professional, then their statement can be used for impeachment in that-- impeach their credibility. So essentially what that means is if this case does end up going to trial and that child defendant decides to get on the stand, and they told the mental health professional they did whatever the offense was for the purpose of trying to get it transferred, and then they go to trial and they say, no, I didn't do it. Then they would be able to point out that you have previously made a statement-- an admission at that point. With the committee amendment, the police and county attorneys are not opposed to LB184. The Judici-- Judici-- Judiciary Committee advanced the bill on an 8-0 vote toward the end of last year's session. I wanted to particularly thank Senator Bosn for helping me reach agreement on this bill. LB184 is a small but important step for helping those children who are charged with law violations to get treatment they needed. Additionally, this bill ensures that the child defendant is encouraged to participate fully in mental health evaluations so the judge can make the appropriate decision regarding whether to transfer the case to juvenile court and to make appropriate orders relating to the child and the case. I urge the body to adopt the committee amendment and to support LB184. Thank you, Mr. President, and I'd be happy to talk-- take any questions from anybody.

ARCH: Senator Bosn, you are recognized to speak. Oh, excuse me. Mr. Clerk for some items.

ASSISTANT CLERK: Mr. President, before we proceed, I have a series of motions that were offered last year from Senator Hunt. MO349, MO346,

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MO347, MO348, MO344, MO345 and MO343. All of those have notes that she wishes to withdraw.

ARCH: Thank you, Mr. Clerk. Without objection, accepted. Senator Bosn, you are recognized to speak.

BOSN: Thank you. I want to just speak on this briefly. I did work on this bill and the amendments with Senator Cavanaugh. I appreciate the work that he's done here. This is a good bill. This is good policy. This clears things up for juveniles going through the criminal justice system or the juvenile justice system. What essentially this does is it enables the court to make the best determination as to where the juvenile's going to be served, whether that is, this is a case that's appropriate for adult court or this is a case that's appropriate for juvenile court. The judge relies on the evaluator in making that determination. And if the juvenile cannot be, and, and is unable to be forthcoming with the evaluator during that time for fear that those statements would be used against them, we're really just chasing our tail here and not enabling the court to make the best determination. The language that's worked out here is supported by the County Attorneys Association, law enforcement, all the members of the Judiciary were in support of this. And I would ask for your green vote on the amendment, which is AM1834, and the underlying bill, LB184. Also happy to help answer any questions that you may have. Certainly, Senator Cavanaugh is probably the primary person you should ask those questions to, but I can help. So thank you, Mr. President.

ARCH: Senator McKinney, you're recognized to speak.

MCKINNEY: Thank you, Mr. President. I rise in support of LB184 and AM1834, because I think it's important to make sure that when juveniles are going through the system, that they're properly evaluated and they're given the best chance possible to, you know, basically have themselves heard, and there's full understanding of their, their mindset and, and what's going on in their lives. And, and the current practice doesn't lead to that because of, of a fear of if I say something wrong, I'm going to end up in the state pen or somewhere else. And I think allowing for this to happen allows for them to properly be evaluated and for them to have some comfort that they can actually tell what's going on in their lives and their mindsets, and hopefully that, you know, they might get a better outcome in the situations that they are in. So I think that's the most important piece is just making sure we properly evaluate juveniles, because we have way too many juveniles in the system that I believe

are not proper or have not been properly evaluated, especially when you walk through the state penitentiary or other institutions in the state and you have these conversations, you start to think, what-- is this person supposed to be here? And what if something-- some other questions were able to be asked, would this person being in this situation? So I think that's why this is important. And if Senator Cavanaugh wants the rest of my time, I'll yield it to him. Thank you.

ARCH: Senator Cavanaugh, three minutes.

J. CAVANAUGH: Thank you, Mr. President. Thank you, Senator McKinney, and I appreciate the supportive comments from Senator Bosn and Senator McKinney and others. And yeah, I think this-- I appreciate Senator Bosn's comments about this is good policy. And it's really is putting a tool that we have into the hands of the court to make the decision we're asking them to make. And as the current situation is, and you know, I can tell you from my personal experience, where this bill comes from is as a defense attorney, you advise your client to not talk about the offense. You ask him to get evaluated and ask him not to talk about it. We're getting an incomplete answer. And it's doing a disservice to that child, but it's also doing a disservice to the court and putting them, the prosecutors, law enforcement, and the judges in a bad position to have to make a decision about what to do with these kids. So we're trying to get us to be able to be accurately making these really consequential, important decisions. So, again, I'd encourage your green vote on AM1834 and LB184. Thank you, Mr. President.

ARCH: Senator DeBoer, you are recognized to speak.

DeBOER: Thank you, Mr. President. Good morning again, colleagues. I did just want to kind of explain some of this in more layperson's terms, because I myself have not had as much interaction with the juvenile court system as far as lawyering as some of my colleagues on the Judiciary Committee, so I sometimes have to ask for a little bit of a refresher. So these hearings that we're talking about are the hearings when a prosecutor has charged a child as an adult and then their defense attorney has made a motion to have it returned to juvenile court because they think juvenile court is the better place to have this particular incident adjudicated. And the reason they might think that is they might think, boy, this kid isn't really that mature, right? They haven't-- one of the reasons, one of the arguments you might have for sending it to adult court is they knew exactly what they were doing, they are a full fledged adult in terms of their

thinking, and they should be charged in adult court. But the defense attorney may say, actually, if you really get to know this kid, this kid is such a child. They really aren't to that maturity level. And so you might have one of these-- and you also may say, look, they may be kind of an adult, but I also know that this kid, because I've gotten to know them as their defense attorney, would really do well in our juvenile system. And our juvenile system is about rehabilitating and helping the child to get them out of that sort of behavior and make them into an adult that functions well within our society. It's got a slightly different kind of slant to it than, our adult system. So in the juvenile system, we're really just caring about the well-being of the child and helping to reform them into the kind of adult that we know that they can be. So in the situation where you have one of those transfer hearings, where you're going from adult court to potentially juvenile court, then you want to have the best evaluation from the best experts that you have about that child's ability to benefit from the kinds of things that we can offer in juvenile court. And also, you might want to have psychological evaluation to understand the maturity level and the mental health level of that child, just to get a good picture about whether the best resolution for this child is to go into the juvenile system, to be reformed there, or to go into the adult court system to have their trial and go through what we use for adults. So that is, I think, the impetus, as I understood it from Senator John Cavanaugh, about why this bill came to be. Because if you have a situation where you're getting that expert evaluation of a child, but the lawyer is telling that child, don't say anything because you might go to adult court and it could be used against you, you're going to have a situation where the children do not feel that they should speak to their psychiatrist or their psychologist or mental health professional. This is a kind of an elegant solution that has been crafted by Senators Cavanaugh and Bosn to sort of maintain the ability to use what the child says in circumstances where it's necessary, but also give the lawyer for the child and the child themselves the ability to talk freely to the psychologist or psychiatrist. If you look at the four exceptions that are offered for why whatever was said in that interview with the psychologist or psychiatrist--

ARCH: One minute.

DeBOER: Thank you, Mr. President. Might be able to use those statements, their proceedings within that, that hearing about motion to transfer itself. It makes sense that the judge should hear what the kid said in the psychiatrist's conversation so that they may make the

best evaluation of moving the child back down to juvenile court or staying where they are. Proceedings in juvenile court-- again, it's a different system. So having all the information about the child and their maturity level, etc. is very important in the juvenile court system. To-- a pre-sentence investigation would occur after the child, if it stayed in adult court, after the child has been found guilty, not guilty-- well, guilty in this case, then they would do an investigation and that el-- that, evidence might be helpful for the judge to know. Which would maybe even help to say, maybe we should not give the child such a long--

ARCH: Time, Senator.

DeBOER: Thank you, Mr. President.

ARCH: Senator Dungan, you are recognized to speak.

DUNGAN: Thank you, Mr. President. And good morning, colleagues. I would stand in support or I do stand in support of both AM1834 and LB184. I just wanted to add, my, my, I guess a couple of comments to what Senators DeBoer, Bosn, and John Cavanaugh have already stated. I think that this AM represents a really important and good faith effort that Senators John Cavanaugh and Bosn worked together on, as well as the rest of the Judiciary Committee. Frankly, I think it is demonstrative of the current state of this body. I think that we are all working hard to reach common sense solutions to problems. And I think that overall we've been trying, really, a lot this session to find that common ground. And I think this is a good example of that. I can speak to this briefly as well as a practitioner. I did practice for some time in juvenile court as well as in adult court during my time as a public defender. And I can say that the necessity of this bill is, is really is really important. As Senator de Boer was saying to, when you have a client who's going through this transfer hearing, oftentimes you have a mental health professional evaluate them because you want the court to have a full picture of your client prior to the transfer hearing happening, so that way they can appreciate and understand all the circumstances that led to this offense. But also all of the underlying circumstances of the juvenile's life. And so when you have them meet with this mental health professional, it's sort of this weird Catch 22 where you want them to be as honest as possible, but as Senator John Cavanaugh said, you also are legally obligated to advise them in certain points in time, hey, if you say x, y and z, it could be used against you down the road. And so it creates this problem where juveniles are not being potentially as honest with

their mental health professional, or certainly not not as candid as they could be, in an effort to sort of balance those interests and concerns. In a juvenile transfer hearing, candor and honesty is always of the utmost importance. It tells you the most about where the kid came from. It tells you the most about their life and their background. And I think it's what we should be striving for in these kind of circumstances. And so what this bill seeks to do is encourage those juveniles to be as open and candid as possible by sort of enshrining some of these protections of those statements, while also balancing that with some of the concerns I know that were raised by the Senator Bosn and some other individuals about making sure that we also are able to utilize those at other points in time in the process. I do think that this was a good faith effort to reach some compromise. I do think overall, this bill reaches the ultimate goal of protecting those juveniles and ensuring that their statements are honest and all of that at the end of the day, I think, helps the system function better. For those who don't know, when you transfer a case from adult court to juvenile court or vice versa, there are a number of things that the court has to or may consider in that transfer. I'm not going to go through all of them, but some of those that I think are really important are whether or not, for example, the juvenile has an ability to appreciate the nature and seriousness of their conduct. Another is whether the best interest of the juvenile and the security of the public may require, a continued secure detention. You have to look at the underlying circumstances of the juvenile's life. And then at the end of that, it also says such other matters as the parties deem relevant to aid in that decision. So there's this non-exhaustive list of all of the things that a judge shall consider in determining whether or not to transfer a case. And having a mental health professional, psychiatrist, psychologist, meet with that youth and really boil down what a lot of their issues are in an honest and open conversation absolutely will assist the court in reaching those determinations and being able to really drill down and understand those different bullet points and sort of how the juvenile fits into those, I think achieves both the goal of ensuring that the--

ARCH: One minute.

DUNGAN: --juvenile was placed-- thank you, Mr. President. --in the proper, court, whether that's adult court or juvenile court. And it also ensures that community safety is always being focused on by weighing all of those different factors. So I think at the end of the day, this is a really good faith compromise. I want to thank, Senator John Cavanaugh for bringing this important bill, and all of the other

individuals who worked on it along the way, and Senator Bosn, for helping craft the bill in its current state. And I appreciate my colleagues talking today, and I'd encourage your green vote on both AM1834 and LB184.

ARCH: Senator Jacobson, you are recognized to speak.

JACOBSON: Thank you, Mr. President. This was a bill that I was a little uncertain as to how I wanted to vote on it. I did speak with Senator Bosn, and she is fully behind support of the bill, with the amendments that are there. But I do want to make a couple of comments about this. And, as we continue to deal with these issues on juvenile justice and how we handle the courts and so on, we often hear two themes here in this floor. We hear the theme about the prisons are overcrowded. But one way to not have them overcrowded is to make sure we send a strong message to juveniles to don't commit these serious crimes that get them-- land them in prison. I think at the same time, we want also talk about where is brain development of juveniles. And so let's remember this as we talk about other issues as to why juveniles should be treated separately because of their brain development as it relates to other bills that might hit the floor. As a general rule, I believe that we should try to do everything we can to rehabilitate at that youth level as quickly as possible. But I also believe that there needs to be consequences at some point. As society has moved forward we continue to find that that we aren't providing maybe in some cases the right penalties, which is causing this rehabili-- that this, this reoccurrence of issues that escalate from shoplifting to more serious crimes. And if it's just a hand slap, we've got a problem. So I get the issue that we're concerned about having them make statements. The truthful is that they would be truthful statements that we would use against them in adult court, so I get that they want to try to hold that out. But I just think we need to always be thinking about this as we move forward. Again, I'm going to support the bill with the amendments, and, and, and move the bill forward. I'll support it all the way through. But I just want to raise those points as as we start talking about other criminal justice issues. Those are issues that I'm going to continue to think about. So thank you, Mr. President.

ARCH: Senator DeBoer, you are recognized to speak.

DeBOER: Thank you, Mr. President. I won't take my whole time, but I did just want to finish what I was talking about last time. So I was detailing the three exceptions already. And then there's a fourth one.

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I think this one's kind of important, because I think it gets at some of what Senator Jacobson was concerned about. This allows for a statement made to the psychiatrist, psychologist, etc., to be used if the young person does get on the stand and testifies in opposition of what they said in that hearing, or in that meeting with the psychologist. So to impeach in criminal trial, if you don't know, means that when I'm on the stand, if I have made a statement otherwise and, you've maybe seen this on Perry Mason or the like, you'll say something on the stand and the judge says, wait a second, or the lawyer says, wait a second and they'll say, do you recognize this? Well, yes, it's a letter I wrote to so-and-so. Is this your signature? Well, yes it is. Did you write this? Yes I did. Can you read this? And then it says, you've said on the stand the light was green and it says the light was red. That's impeachment. So this would allow those statements to be used to show the jury or the trier of fact that in a previous situation you said something the opposite of what you're saying now. So I think we've covered all our bases here to allow everyone to use these statements when necessary, but also to be, looking for [INAUDIBLE] we have a hearing to look at whether or not a child's case should be returned to juvenile court, we ought to have the best information in that trial. This does that. And this amendment does that without taking away any of the reasons we might want to use that statement that was made to the psychologist or psychiatrist if it does, come out that the student or the child has lied. Thank you, Mr. President.

ARCH: Senator DeKay, you are recognized to speak.

DeKAY: Thank you, Mr. President. I will be supporting AM1834 and LB184. And as a member of the Judiciary Committee, I appreciate the work that Senator Cavanaugh and the parties involved used as tools to bring a good bill to the floor. I also appreciate Senator DeBoer for putting this in, layman's terms. I wonder if I was an inspiration for that, but thank you. And I will urge for a green vote for the amendment and the bill. Thank you.

ARCH: Seeing no one left in the queue, Senator DeBoer, you are welcome to close on the committee amendment. Senator DeBoer waves close. Motion before the body is the adoption of AM1834 to LB184. All those in favor vote aye; opposed nay. Has everyone voted who wishes to vote? Mr. Clerk, please record.

ASSISTANT CLERK: 40 ayes, 0 nays on the adoption of committee amendments.

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ARCH: The motion is adopted. Mr. Clerk for item.

ASSISTANT CLERK: Mr. President Senator John Cavanaugh had AM1284. He wishes to withdraw that amendment.

ARCH: Without objection, so ordered. Senator Cavanaugh you are welcome to close on LB184.

J. CAVANAUGH: Thank you, Mr. President. Just want to say thanks for the green vote and thanks for everybody's work on this bill. And I'd encourage your green vote to advance LB184. Thank you, Mr. President.

ARCH: Colleagues, the motion before the body is the advancement to E&R Initial of LB184. All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record.

ASSISTANT CLERK: 41 ayes, 0 nays on the motion to advance the bill, Mr. President.

ARCH: The bill is advanced. Mr. Clerk for an item.

ASSISTANT CLERK: Thank you, Mr. President. I have a report from the Government, Military and Veterans Affairs with regard to the Adjutant General of the Military Department. I have notice of committee hearings from the Appropriations Committee, the Transportation and Telecommunications Committee, and the Business and Labor Committee; and an amendment to be printed from Senator Linehan to LB1403. Also an amendment to LB977 from Senator Blood. That's all I have at this time.

ARCH: Thank you, Mr. Clerk. We will now move to the State of the Judiciary Address. Senator Wishart for a motion.

WISHART: Thank you, Mr. President. I move that a committee of five be appointed to escort the Chief Justice of the Supreme Court and members of the Supreme Court to the Legislative Chamber for the purpose of delivering the State of the Judiciary Address.

ARCH: That is a motion. All those in favor say aye. All those opposed nay. The motion carries. The members of the escort committee will be Senator Bosn, Senator John Cavanaugh, Senator DeKay, Senator Slama, Senator Blood. Will the committee please escort the Chief Justice to the Chamber? We will now stand at ease while the committee escorts the Chief Justice to the Chamber. Colleagues, while we are waiting, I would like to announce some guests in the Chamber. For the State of the Judiciary Address, we have Michael McCarthy, president of the

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Nebraska State Bar Association; Honorable Tricia Freeman, the president elect of the Nebraska State Bar Association; Liz Neely, the executive director of the Nebraska State Bar Association; Doris Huffman, the executive director, Nebraska State Bar Foundation; and Kathy Olson, director of the Nebraska State Bar Foundation. Please rise and welcome our guests.

ASSISTANT CLERK: Mr. Speaker, your committee now escorting the Chief Justice of the Supreme Court of the great state of Nebraska, Mike Heavican, and members of the court.

MIKE HEAVICAN: Mr. Speaker, and members of the Legislature. Thanks to all of you, particularly Speaker Arch, for inviting me to address you this morning. It is always an honor for me to report on the annual accomplishments of our Judicial Branch and discuss our upcoming plans with you. With me in the Chamber today are my fellow justices, Justice Lindsey Miller-Lerman of Omaha, Justice William Cassel of O'Neill, Justice Stephanie Stacy of Lincoln, Justice Jeff Funke of Nebraska City, Justice Jonathan Papik of Omaha, and Justice John Freudenberg of Rushville. Today, I will speak to you about our excellent judicial branch judges and support staff, problem-solving courts, probation, language interpreter services, the Office of Public Guardian, and our much needed technology upgrades. I opened this address last year by discussing staffing shortages we were experiencing across our Judicial Branch. I am happy to report that while we still have more than 100 vacancies statewide out of over 1,600 employees, we now exceed pre-pandemic staffing levels. Our turnover rate has dropped to just over 5%, and our vacancy rate branch-wide is less than 8%. These are significant improvements. I highlight this because these improvements have not occurred by accident. First and foremost, I sincerely thank this body for supporting our efforts directed at making Nebraska's Judicial Branch a competitive employer in the job market. Those efforts over the past three years included a pair of classification and compensation studies. The purpose of the studies was to find how judicial branch employee salaries compared to both public and private sectors. Your approval of salary increases based on these studies means we are now competitive in most job markets. I remind you, however, that the increases you approved have not yet been included in our base budget. In addition to salary increases, we have expanded our recruiting efforts by participating in career fairs at colleges, high schools, and even junior high schools across the state. Because of information gathered during community listening sessions, we've also increased recruitment by cooperation with entities like the Urban League of Omaha, and we have targeted expansion of our internship

programs as well as job shadowing opportunities. We have also expanded utilization of social media as a recruiting tool to highlight the great work being done in the branch. I now especially call your attention to some exemplary national achievements in 2023 by judges and probation staff. This past November, now retired District Court Judge Jim Doyle of Lexington was given the William Rehnquist Award for Judicial Excellence. There is no greater recognition a trial court judge in America can receive. Chief Justice John Roberts of the United States Supreme Court presented the award to Judge Doyle in front of 200 honored guests and dignitaries in Washington, DC. At that presentation, I was pleased to highlight Judge Doyle's contributions to the citizens of Nebraska, especially those in rural communities. During his more than two decades of judicial service, Judge Doyle went to great lengths to improve interpreter services, establish problem-solving courts, and increase public and media access to court proceedings. Judge Doyle established Nebraska's first predominantly rural drug court in 2006, and served as chair of the Nebraska Supreme Court's Committee on Problem-Solving courts until his retirement. Under his guidance, problem-solving courts were established in every judicial district in Nebraska. During the pandemic, Judge Doyle also began Nebraska's only judicial YouTube channel, broadcasting his court proceedings to the public. We all owe a debt of gratitude to Judge Doyle and his dedication to public service. I also congratulate Court of Appeals Judge Frankie Moore of North Platte, who has been elected by her fellow Appeals Court Judges across America as the current Vice President and President-elect of the Council of Chief Judges of the State Courts of Appeal. Judge Moore has served on the Nebraska Court of Appeals since January of 2000, and was the chief judge from 2014 to 2020. She is also a member of the Nebraska Access to Justice Commission, and serves as chair of the Self-Represented Litigation Committee. In 2015, Judge Moore received the "Distinguished Judge for Service to Community" award from the Nebraska Supreme Court. Congratulations also to Kari Rumbaugh, Deputy Administrator of the Juvenile Probation Services Division. Ms. Rumbaugh was selected as the only probation representative nationally to testify as an expert on juvenile probation on a panel of youth justice professionals before the Federal Coordinating Council for Juvenile Justice and Delinquency Prevention in Washington, D.C. Deputy Rumbaugh's testimony focused on how the Council can enhance coordination regarding the prevention of youth recidivism. I'm also happy to report that Nebraska Probation was selected by the Columbia, Columbia University Emerging Adult Justice Project as one of the-- of only three innovation sites in the United States. The intent of the two and a half year pilot project is to

improve case management, management strategies, and outcomes for young adult offenders ages 18 to 25. I now more generally report on probation. Adult Probation provides community supervision for over 16,000 individuals in all 93 Nebraska counties. Probation officers assist, direct, and motivate individuals to avoid incarceration and live productive lives. Probation includes restitution, community service, drug testing, and mental health treatments. Probation also administers swift and certain sanctions for violations of court orders. Probation officers are highly trained to assess the needs of individuals to better address their rehabilitation. Statewide, Nebraska Probation currently works with over 1,500 individual service providers and over 500 service provider agencies. Our behavioral health partners provide an essential component required for successful rehabilitation of probationers. However, there is still a significant shortage of new providers and reimbursement rates have not kept pace with the cost of these services. Nebraska Probation recently established a partnership with the Nebraska Department of Labor to provide employment programming in our 17 community reporting centers. This important cooperation will assist probationers to obtain and maintain employment to be successful citizens. Likewise, in January 2022, this Legislature funded the expansion of the Young Adult Problem Solving, Solving Court in Douglas county to include the creation of a new employment coordinator position. This innovative approach was designed to better equip young adults with job skills, resources, and employment connections needed to secure meaningful employment within the Omaha community. This includes the recruitment of over 180 employers who are willing to hire Young Adult, Adult Problem-Solving Court participants. Success is demonstrated by a 13% decrease in unemployment for individuals in the Young Adult Problem-Solving Court. In a written testimonial, a Young Adult Court graduate noted, it is absolutely amazing that you have a system that gives young people like myself the chance to do something better. Nebraska probation continues to be cost effective for taxpayers. The average cost of incarceration in Nebraska is \$41,000 per person per year, compared to the average cost of probation, which is \$3,500 per person per year. Probation is the taxpayers' friend. I will now discuss in more detail problem solving courts. Nebraska problem solving courts have also proven to be a cost effective alternative for diverting individuals from our jails and prisons through judicial interaction, intensive community supervision, and rehabilitation. Nearly 1,600 individuals participated in 33 problem solving courts during the last fiscal year. Thanks to your support, more individuals in Nebraska have been provided access to problem solving courts through the creation of new courts and added

capacity to existing problem solving courts, there has been a 27% increase in problem solving court participation since 2020. At your request, recent problem solving court expansion efforts include Nebraska's fourth Veterans Treatment Court, serving Sarpy and Cass counties, and a new Adult Drug Court in the 5th Judicial District serving Platte County. Also, the drug court in Saunders County has been doubled in size. However, a newly completed needs assessment determined that only 5% of individuals eligible for problem solving courts in Nebraska are being served. With the correct infrastructure in place, problem solving courts are positioned to be an ongoing and viable alternative to prison. The Judicial Branch is committed to working with you to continue further problem solving court expansion. I remind you that the annual average cost of participants involved in a problem solving court is approximately \$4,400. Like probation, each problem solving court is the taxpayers' friend. Next, I will discuss juvenile probation. Please note the following accomplishments and concerns. First, the Juvenile Justice System Enhancement Initiative continued this year with the completion of a statewide system assessment and receipt of a final report. The report emphasized that Nebraska's juvenile justice system practice is positioned as a positive leader in juvenile justice system practices. The Nebraska Supreme Court provided an opportunity for Nebraskans to submit public comments regarding those findings. Second, reflecting a post-pandemic increase in delinquency filings, there has been a 25% increase in youth placed on probation in fiscal year 2023 as compared to the previous year. Over the same period, there was also an increase of more than 300 predisposition investigations completed by probation officers providing comprehensive reports and recommendations to courts across the state. Even with this increase, juvenile probation has been able to maintain-- maintain a low 19% recidivism rate over the past two years. Third, increasing access to essential services for youth continued as a focus, especially in rural areas of the state. Although service availability continues to be a challenge, we successfully supported the opening of a new emergency shelter in Maxwell, the recruitment of new foster homes in Scottsbluff, and the expansion of a judge led mentoring project in Saline and Jefferson counties. Fourth, there remains, however, a major lack of detention facilities for delinquent juveniles in Nebraska. There are currently only four such detention facilities in the state. They are located in Sarpy, Douglas, Lancaster and Madison counties. There are no juvenile detention facilities west of this building, and counties have no incentive to fund them. We are forced to bay Iowa, Kansas, and Wyoming in order to handle our judicial detention needs. I turn now to the Office of

Public Guardian. This Legislature created the Office of Public Guardian and placed it in the judicial branch in 2015 because of the lack of guardians in Nebraska to serve vulnerable, incapacitated adults. These are mostly elderly, mentally ill, and medically fragile individuals who lack cognitive capacity and are susceptible to financial exploitation and neglect. Approximately 86% of the wards of the Office of Public Guardian need mental health services. The Office of Public Guardian was created to serve as guardian of last resort for individuals when no one else is available. The demand for assistant public guardians, however, far exceeds our current capacity to respond. The Office of Public Guardian has had a waiting list since 2018. Fortunately, there has been a core group of assistant guardians who have persevered, serving these citizens with commitment, sacrifice and compassion through the pandemic and chronic staff shortages. Largely because of the aforementioned salary increases, staff shortages have been reversed, but the demand for expanding the number of assistant public guardians continues. I now turn to our Language Access Program, which recruits, trains and certifies language interpreters and which of course coordinates the appointment of qualified interpreters to help limited English proficient deaf and hard of hearing individuals understand their court proceedings and probation services, regardless of what language they speak. Conversely, interpreters help judges, lawyers, witnesses, juries, and court staff understand the non-English speaking participants who appear in Nebraska courtrooms and probation offices on a daily basis. Fifty years ago, this Legislature commanded by statute that we provide language access to everyone who appears in our courts. Last summer, we celebrated the passage of that 1973 legislation in Colfax County, where we frequently utilize language interpreters. On a statewide basis, we used interpreters in 69 different languages in 2023, including three indigenous languages we had never used before. Those are: Tzotzil, a Mayan language from Chiapas, Mexico, which is spoken by only 50,000 people; Zapotec, a language of which there are approximately 450,000 speakers, most of whom live in the Mexican states of Oaxaca and Veracruz; and Chuj, a language which is spoken by approximately only 43,000 people, 40,000 in Guatemala and 3,000 in Mexico. There are only a handful of interpreters in the United States that speak these rare languages, but by using Language Line and cooperating with other states, we were able to provide the necessary interpreters. It is not just an increase in rare indigenous languages that we are experiencing, however, but an overall growth in language diversity. As an example, in February of 2023, the Lancaster County Truancy Diversion Court served 12 families with a total of six

different languages in a single hearing (two Arabic, one Dinka, one Farsi, three Kurdish, one Nuer and four Spanish). We expect the number of limited English proficient, deaf, and hard of hearing court and probation users to steadily increase in the coming years. We are asking for increased funding for our language access initiatives. Finally, I will discuss technology. I have regularly reported on the growing importance technology plays for the courts and its programs. Today more than ever our reliance on technology in providing access to justice is tantamount to our success. We could not have kept our courts functioning during the pandemic without electronic filing, Zoom hearings, and other technological advancements. First of all, like this legislative branch did years ago, we are establishing a branch specific information technology system for the courts. We have moved away from the information technology services previously provided by the Executive Branch Office of Chief Information Officer, into our own self-maintained domain at NEJudicial.gov. We also continue to relieve more counties of the financial burden of overseeing court IT functions. A self-contained IT infrastructure, is more amenable to needed ongoing changes, and will allow us to more closely monitor and address security threats. Secondly, in the coming months we will complete technological upgrades normally paid for by counties in every courtroom across the state. We are outfitting each courtroom with state-of-the-art equipment, which will increase access and improve improve user experiences. This includes a system for enhancing the ability for hearing impaired individuals to understand court proceedings. Next, we will continue to refine our e-filing efforts. We've enhanced the software used to accomplish this, including software for the tracking of continuing legal education and Bar Exam enrollment systems. And we are completing development of a cloud-based exhibits repository. For our providers serving probation, we have also implemented an improved service provider information management system, which streamlined fee-for-service voucher processing. And we are in the process of moving our court and probation case management systems into the cloud and away from very outdated server-based data storage systems. Most importantly, however, I call your attention to the need to upgrade our current case management system for both efficiency and the ability to provide you and others with requested data information, and especially for cyber security purposes. Our current system was built in-house, no consultants, no outside vendors, and with only marginal use of tax dollars. It was rolled out in 1993 using COBAL programing code and an AS400 operating system. The system is held together with baling wire and bubble gum. A 30 plus year old case management system is not adequate to meet current and future

court demands. The judicial branch has experienced significant programmatic growth in the last decade. As noted, the number of problem-solving courts has grown exponentially. Juvenile justice reform, justice reinvestment, post-release supervision, and the additions of the Offices of Dispute Resolution and Public Guardian have all had a dramatic impact on the Judicial, Judicial branch. These services operate separate information systems or within our outdated systems. This legislative body, along with many court users, regularly requests data reports we are simply unable to produce. The current system does not collect such information, it does not store such information, and we cannot provide such information. Again, it is vital to our success that our unified case management system be upgraded to meet our future needs, as well as your data requests. We look forward to partnership and collaboration as we move our courts into the 21st century. While costly, this is a necessary investment for our future, your future, and our state's future. I especially emphasize, however, our need to upgrade protection for online records. The court maintains a great deal of personal information within our case management system. Much like banks, retail outlets, and health care providers, we handle a large amount of confidential information online, including bank account numbers, Social Security numbers, credit card information, and other financial details. Additionally, we store information on paternity and child custody as well as criminal case data on sexual assaults of both adults and children. This past October, the Kansas court system suffered a foreign cyberattack that forced officials to completely shut down their electronic system. The attackers had access to all of the confidential information I just summarized. Public access to documents and online filing for lawyers had to be suspended for months after the attack. Lawyers reverted to using the old paper system to file their cases, and anyone seeking public records had to visit their local courthouses or the state capital. A ransom was demanded to restart the system. The ransom was not paid, but the attack nevertheless cost Kansans millions of tax dollars and user fee expenses. Kansas serves as a warning for the rest of us. If the Kansas Supreme Court fell victim to a sophisticated foreign cyber attack, without needed upgrades we must consider ourselves equally vulnerable. On that cautionary note, I thank you for this opportunity to speak with you today. I look forward to our continuing cooperation with you and our executive branch friends in serving all Nebraska citizens. Thank you very much.

ARCH: The escort committee would please come forward and escort the chief and justices out of the Chamber. Thank you. Colleagues. We will now resume our morning agenda. Mr. Clerk, first item.

ASSISTANT CLERK: Mr. President, LB102 is the next bill on today's agenda. It's a bill for an act relating to land surveying; to change provision in the Nebraska Plane Coordinate System Act and the Land Surveyors Regulation Act; to define and redefine terms; to authorize certain land surveying activities; to provide for requirements, liability, licensure duties, organizational practice, disciplinary action as prescribed; change requirements for the content and filing of land surveys; change and provide penalties; change and provide fees; harmonize provisions; provide an operative date; and repeal the original sections. The bill was introduced on January 6, 2023. It was referred to the Government, Military and Veterans Affairs Committee. That committee reports the bill to General File with committee amendments attached.

ARCH: Senator Erdman, you are welcome to open on LB102.

ERDMAN: Thank you, Mr. President, and good morning. Let me start with this. As happens in my case most of the time, a bill that comes to me for my attention comes from my constituents. That is the case with this bill. I had been contacted by several, professional surveyors in my district and in Senator Hardin's district about some issues that they were having with getting on to private land to find a marker to do surveying. And so they presented that to me. And in the meantime, the state surveyor, his name is Casey Sherlock. And Casey was the county surveyor in Box Butte County when I was county commissioner in Morrill County. So I had several occasions to work with Casey on things, and when he became the state surveyor, he had contacted me when I had introduced this bill and was thinking about it, and asked if he could make adjustments to the state surveyor statute, which hadn't been updated since 1983. So he and I worked together to come to the conclusion as to what you see as LB102. We had a hearing last year on LB102. The committee was very receptive to the information. A couple of my senator colleagues, Senator Raybould and Senator Conrad, asked some very, very good questions, trying to discover what land surveying does. And I appreciated their input and their comments. I also appreciate the fact that the committee advanced this bill on an 8-0 vote. So what we're trying to do with this bill is to make it available to local professional land surveyors who are having trouble finding monuments, which are basically markers to find the location in a certain area in the community, in the area. And so what happens is

the state surveyor and the county surveyor does have authority to go onto private land to find such markers, but it's not afforded to professional surveyors that are not part of that class. And so what basically happens is they're out there doing a survey, and they're looking for a section corner marker to start their survey from, and they can't find that survey marker. So they may have to go to the next mile line a mile away to find that marker of that section. And in the process, they may have to go across private land to do that. And our state statutes does not allow those professional surveyors to go on to private property without permission. Many of our parcels are owned by absentee landowners or by an LLC or a trust. And so when the surveyor is trying to discover who owns the parcel and get permission, it could take several days or weeks to discover who that is. And so what we're doing with this bill, we're giving a permission to go on to private property to discover the monuments they need to find, the markers they need to discover. They will be responsible for any damages that they cause to the property or crops, or any of the property of the owner of the private property. Their vehicles have to be marked so that people know who they are, and they're also going to be responsible for any damage they caused to the property as far as the things that they did driving on the land or whatever it may be. So there are provisions in the bill to protect private landowners. It gives the surveyor an opportunity to finish his work in a timely manner. And I'll give you some examples. In my other life, I sell real estate, and most of it is agricultural real estate, which most often requires a survey. And I have seen instances where we sent a surveyor to do a survey and he could not get permit-- he couldn't receive permission from a private landowner to find a marker, and it has held up the sale of that property because they didn't complete it in time before the closing. So this is a issue that we've been dealing with for some time. So the other issue that the surv-- state surveyor Sherlock brought to my attention is changing the way that we survey today is totally different than it was in 1983. So he's allowing for GPS coordinates to be used, and he's doing other things to make sure that our statutes are up to date. And so he's making those changes. We have a couple of amendments and we'll get to those in a minute. But this is basically a common sense approach to allowing the land surveyors to do what they need to do to accomplish their job. I'd be happy to answer any questions if you have some. And I think, Senator Brewer's going to handle the amendment.

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ARCH: Mr. Clerk for a committee amendment. As the Clerk indicated, there are committee amendments. Senator Brewer, you're recognized to open.

BREWER: Thank you, Mr. President. Senator Erdman's LB102, was heard in the Government Committee on January 26th of last year. We heard from several different proponents in the hearing, our state surveyor, Casey Sherlock, and then Casey DunnGossin with GIS. We also received neutral testimony from John Berry representing Lancaster County Engineering. There was no opposition in the hearing. The bill is a fairly major update to the laws referencing land surveying and mapping. The committee voted unanimously, unanimously, 8-0, to advance the bill out of committee as AM183. Committee amendment makes two changes. The first one is an amendment that makes it clear the surveyor records do not have to be stored at the courthouse. Many of our courthouses are fairly crowded as is. And keeping the surveying records safe and accessible is a priority. The amendment would just authorize them to store the records at county facilities other than the courthouse itself. The second one, the amendment makes changes to our legal counsel-- makes changes our legal counsel recommended to avoid unconstitutional delegation of our legislative authority to Congress. Instead of relying on Congress, the amendment would say that the Nebraska GIS, Global Information System, Council would have the power to adopt and coordinate systems to be used by land surveyors. I would like to thank Senator Erdman for his hard work on this bill and recommend a green vote on AM183 and on LB102. Thank you, Mr. President.

ARCH: Mr. Clerk for items.

ASSISTANT CLERK: Mr. President, Senator Machaela Cavanaugh had, had offered an amendment to the committee amendments AM527, but I have a note that she wishes to withdraw.

ARCH: Thank you, Mr. Clerk. Senator Dorn, you are recognized to speak.

DORN: Thank you. Thank you, Mr. Speaker. Senator-- I didn't talk to Senator Erdman before, but if-- would Senator Erdman yield to a question?

ARCH: Senator Erdman, will you yield?

ERDMAN: Yes, I would.

DORN: I know it's up the next in line, the LB102A but could you go over a little bit why or how you came about that \$2,500 each, two years for the A part of this bill?

ERDMAN: Yes, I can. Thank you for the question. So, what happens now, Senator Dorn, is those organizations who have a survey or are doing survey work do not have to be registered. And so what this bill does is they have to have a licensed person in that organization that's designated as a surveyor. And so what, what the A bill is, is those organizations are now going to have to file with the survey statute-- under the survey statute, and it's going to cost them \$25. So that's protecting the public that when they have an-- a corporation do their survey, they actually have a licensed professional surveyor doing the work.

DORN: Thank you for that explanation. I yield my time.

ARCH: Senator Erdman, you are next in the queue.

ERDMAN: Thank you, thank you, Mr. Speaker. So Senator Brewer alluded to the-- to the amendment. Let me, let me speak just a bit about why it's important to be able to store these documents in a place other than a courthouse. I, I know of several counties that have a building where their GIS mapping people are which also includes their surveyor. That building is not part of the courthouse. And so the statute now says that the documents have to be stored at the courthouse. So what they're doing is they're doing the survey, they're doing all the information and recording it, and then they have to take it to the courthouse to store it. And so what there's-- what this bill states, this amendment states, is that they can store it in a building that's owned by the county. And so it just, it just harmonizes the fact that these records are being stored where the people that made those records and have need for the access to them can have access without going into the courthouse. So that's the opportunity that find-- we find that makes our government, county government more efficient. And in some counties, they have hired a county surveyor. And so they have a hired surveyor or contracted surveyor. And so they need to be able to store that information in a place that's owned by the county, but not necessarily the courthouse. And I'll be available to answer any questions you might have. Thank you.

ARCH: Senator Conrad, you are recognized to speak.

CONRAD: Thank you, Mr. President. And good morning, colleagues. I wanted to just rise in support of my friend, Senator Erdman's legislation that is before the body today. I can say as a member of the Government Committee, it has been an incredibly joyful experience to have an opportunity to learn so much about so many issues that I previously did not have on my radar screen. And I distinctly remember the vigorous deliberation, the incredible expertise that Senator Erdman and those that he had brought forward to the committee presented in regards to this important issue. And not only did we have an incredibly stimulating committee hearing on this important issue, but we've continued to talk about this issue amongst ourselves in the Executive Session and then in preparation for floor debate. And one thing I wanted to note as well, in addition to how fascinating this topic was, and how important this measure is, and how grateful I am for Senator Erdman bringing forward is, it also reminds me of some really sage advice that a senior member of the Legislature gave me when I was a young 20-something year old senator who had entered the body years and years ago, and they said, find somebody-- find something to work with every single one of your colleagues on. It could be something little. It could be something big. It doesn't matter. Find something to work together on. And that way you'll get to know them. You'll get to know what's important to them and their district. You'll have an opportunity to learn about their style and their approach. And you can take that experience. And then that will help to carry you forward, to find more common ground issues, or to stay in relationship when you find yourselves in respectful disagreement. And, I don't always live up to that sage advice, but I, I do think about it a lot. I reflect upon it a lot. And it is, a really smart way to help us navigate through thorny issues together when we do have an opportunity to identify and seize and and relish the common ground that we're able to find on the other diverse issues that come before the legislative body. So with that, I want to thank Senator Erdman for bringing forward a really cool bill, fostering an excellent committee hearing, and doing a great job presenting it to the body today. Thank you.

ARCH: Senator Brandt, you are recognized to speak.

BRANDT: Thank you, Mr. Speaker. And and thank you, Senator Erdman, for bringing this important bill. Would Senator Erdman be able to answer a question?

ARCH: Senator Erdman, will you yield to a question?

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ERDMAN: Yes, I would.

BRANDT: And I think on your opening statement, you alluded to this, and it's much different in western Nebraska than eastern Nebraska. Where I live, as a farmer, our monuments are buried in road intersections. So when we do a survey, and I'm thinking particularly of farm ground, and they can pretty much either stay on the public land or on the land that is being surveyed, which obviously has the permission for the survey. But out where you're located, roads are few and far between, and the monuments are probably more often than not located on private ground. So my first question is, if the surveyor, were to get injured, they have no recourse against that private landowner where they are searching for the monument. Is that correct?

ERDMAN: That is correct.

BRANDT: And then the second question, which probably comes into play out where you're located. If you locate that private landowner, can they refuse the surveyor entry to locate that monument?

ERDMAN: Not according-- not what I understand. They cannot. That's the problem that we have is sometimes they don't get permission, and they can never figure out where the monument is. And so therefore, they can't complete their survey.

BRANDT: So, I mean, if you have a contrarian landowner and they just don't want anybody on their property, this would give that surveyor, the right to complete his survey.

ERDMAN: Yes. And I think if that's the case, Senator Brandt, these people are very much commonsense people. They would try to get permission whenever possible. Even going on to private land, if there is an owner that's available, they will speak to them about what they're going to do. This is a situation where we have absentee landowners that they can't reach or find. It gives them the opportunity to complete their work.

BRANDT: All right. I support the bill. Thank you.

ARCH: Senator Clements, you are recognized to speak.

CLEMENTS: Thank you, Mr. President. I stand in support of LB102 and the amendment. My wife and I purchased a farm a dozen years ago, and in trying to find where the boundary is between ourselves and our neighbor. I asked the neighbor to come and show me where the corner

post would be, and he found one on the north, but on the south, the other adjacent person had done some, believe some terracing work and earthwork, and they had removed the post. And so I talked to a surveyor about how can we get that surveyed so we know where we are for the boundary, and the surveyor says, well, I'm really going to have to go a mile and a half west of here to start, from a corner that I know about. And, the landowner a mile and a half west is an, an elderly woman, absentee landowner. And so far we haven't even tried to do that. And part of it is we're agreeable with our boundary where we think it is. But it could happen that if the surveyor wants to go find the starting point that it's going to-- it could have been difficult to get to that spot. And I think this, this bill does resolve any issue if that would occur in my situation. So I thank you, Senator Erdman. I ask for your green vote on AM183 and LB102. Thank you.

ARCH: Seeing no one left in the queue, Senator Brewer, Brewer, you're welcome to close on the committee amendment. AM183. Senator Brewer waives close. Colleagues, the question before the body is the adoption of AM183 to LB102. All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record.

ASSISTANT CLERK: 37 ayes, 0 nays on the adoption of committee amendments.

ARCH: The amendment is adopted. Senator Erdman, you are welcome to close on LB102.

ERDMAN: Thank you, Mr. President. So I had a conversation briefly with Senator Conrad off of the mic. One of the things that the state surveyor explained to us when he was in the hearing is because of gravity the Earth plate is moving. And he said over time, and I think he said in ten years, the plate moves two centimeters. And so that was an, an unusual comment. And and it got the attention of Senator Conrad and myself as well, because I figured if he put a spot on the earth, a mark, you come back ten years later, it's in the same spot. But he indicated that it does move, and that was something that I had never thought of. So I appreciate the support on LB102. I think it's a situation that is going to solve a problem. Senator Clements described what he had, and I do appreciate the support on the amendment, and I'd ask you to do the same on this, this, this advancing the bill. Thank you.

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ARCH: The question before the body is the advancement to E&R Initial of LB102. All those in favor, vote aye; all those opposed, vote nay. Mr. Clerk, please record.

ASSISTANT CLERK: 37 ayes, 0 nays on the motion to advance the bill.

ARCH: LB102 is advanced. Mr. Clerk, next item.

ASSISTANT CLERK: LB102A, offered by Senator Erdman. It's a bill for act relating to appropriations; to appropriate funds to carry out the provisions of LB102, One Hundred Eighth Legislature, First Session, 2023. Bill was placed directly on General File. It was introduced on March 6th of last year.

ARCH: Senator Erdman, you are recognized to open on LB102A.

ERDMAN: Thank you, Mr. President. So LB102A is just the A, the fiscal note for the surveying bill. And the estimate is there's going to be 100 of these corporations who will file that certificate to be licensed as a professional surveyor. And I talked to the state surveyor yesterday, and he said that there'll be no additional employees hired to can-- to keep the information current. And he, he estimates that the \$2,500 that's collected in fees will be sufficient to pay for the recording of those licenses, so that we have protected the public to know that when they hire a corporation, they're getting a professional land surveyor. So that is, that's what the fiscal note is. There's no cost to the state. And I would encourage your vote on the fiscal note, LB102A. Thank you.

ARCH: See? No one in the queue, Senator Erdman, you are welcome to close on LB102A. Oh, excuse me. There is an amendment to the A bill. Mr. Clerk?

ASSISTANT CLERK: Senator Erdman would offer AM2169.

ARCH: Senator Erdman, you are welcome to open on the amendment.

ERDMAN: Thank you, Mr. President. What the amendment does, because this bill was introduced in '23, it just changes the date. It changes the date from '23-'24 to '24-'25 and from '25 to '26. And so it's just updating the, the, reference to the date of, of the application of this statute. And that's all that that amendment does. I'd appreciate your support. Thank you.

ARCH: See no one in the queue, Senator Erdman, you are welcome to close on the amendment. Senator Erdman waives close. The question before the body is the adoption of AM2169 to LB102A. All those in favor vote aye; all those opposed, vote nay. Mr. Clerk, please record.

ASSISTANT CLERK: 37 ayes, 0 nays on the adoption of the amendment.

ARCH: The amendment is adopted. Senator Erdman, you are welcome to close now on LB102A.

ERDMAN: Thank you, Mr. Speaker. I'll be brief. I appreciate the support on this, and I know that the surveyors that are watching, especially the state surveyor, appreciate your vote as well. So thank you for your support. Thank you.

ARCH: So the question before the body is the advancement of LB102A to E&R Initial. All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record.

ASSISTANT CLERK: 37 ayes, 0 nays on the motion to advance the bill.

ARCH: LB102A is advanced. Mr. Clerk, next item.

ASSISTANT CLERK: LB83, offered by Senator DeBoer. It's a bill for an act relating to community property; to adopt the Uniform Community Property Disposition at Death Act; change provision relating to court jurisdiction; provide severability; repeal the original section. The bill was introduced on January 5th of last year. It was referred to the Judiciary Committee. That committee placed the bill on General File with no committee amendments.

ARCH: Senator DeBoer, you are recognized to open on LB83.

DeBOER: Thank you, Mr. President. Good morning again, colleagues. Well, I am very happy to bring you another esoteric and very specific piece of law dealing with the disposition of property upon death. As I have done over the last several years, because people bring these to me, and apparently I look like somebody who wants to talk about death and very, very specific situations quite frequently. So I am here to introduce LB83, which is the Uniform Community Property Disposition at Death Act. Say that five times fast, if you will. So this is a bill that would deal with disposition of community property in the state of Nebraska, which is not a community property state. So. The law of marital property is not uniform across the United States. Nine states and a number of foreign countries are community property

jurisdictions. That means that any property acquired by a married couple is presumed to be jointly owned by both spouses. Nebraska, however, follows the majority rule that makes no such presumption and recognizes individual ownership of property by married persons. Good job us. Community property acquired by spouses in a community property state retains that status, even if the spouses eventually move to a place like Nebraska, which is a non-community property state. LB83 is important because it provides guidance to Nebraska's trustees, judges and estate administrators on how to deal with the distribution of community property at death. Since we're not a community property state, we don't have a mechanism in place for how to deal with community property when people have community property, therefore, we sort of have the Wild West. So the act provides a set of default rules to ensure the equitable distribution of community property when the first spouse dies. It assists courts in determining the character of property, whether it's community property or not, when there is a dispute between potential heirs. The act also clarifies the process for partitioning or reclassifying community property for couples who mutually agree to separate their interests, and it provides a remedy to address bad faith transfers intended to impair the property rights of one spouse. So partitioning would be a kind of division, and reclassifying would be the process for which you change what is community property into non community property. So there's also information of that, how to do that. That doesn't occur at death. People are still alive when they do that. So slightly misleading when we say the Uniform Community Property Disposition at Death Act because some of these things also occur when alive LB83, was heard in the Judiciary Committee on February 2nd of last year. It had two proponent testifiers, including the Nebraska State Bar Association, and had no opposition testimony. It was advanced from the committee on an 8-0 vote and with no committee amendments. So I'm here to answer the questions that you may have. I do want to explain a little bit how I came to have this piece of law so that you understand it. This came to me from the Uniform Law Commission. You may recall that I have done several pieces of legislation for the Uniform Law Commission in the past, as well as several other senators in this body have also done them. The Uniform Law Commission is a group of lawyers and judges who get together and say, hey, there is disparity in the various state laws in some specific area, and interstate commerce, or in this case, trust in the states would be better off if we had the same law or similar laws in the various states. These are areas of state law which it might be helpful to have similar throughout the states. They get together, they all work together, and they come up with draft uniform

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laws that could be passed by individual states in order to make the law the same, so that people kind of know what they're in for and know how the law will work. Currently, this law has been passed in Wyoming, Virginia, Oregon, North Carolina, New York, Montana, Michigan, Kentucky, Hawaii, Florida, Connecticut, Colorado, and Arkansas. So that's one, two, three, four, five, six, seven, eight, nine, ten, eleven, twelve, thirteen. Thirteen other states have already done this one. Obviously you wouldn't need it if you were a community property state because you would ostensibly have the ability to already deal with community property. So this would be a large chunk of those which are not community property states. So, I'm happy to answer questions. I was asked by someone in the hallway how you go about proving that something is community property. The way this act works, since I was questioned and didn't have the answer, I will explain it now. The way this act works is that when one spouse dies, then there is a period of six months in which someone can present, or sort of write a letter into either the probate court or to the surviving spouse or the heirs and say, hey, I have a claim to this property. So the onus is really on the person who's claiming the property to say, I have a claim to this property. And then it goes, before the judge or the trustee or whoever, and you present them with evidence that this is community property, and therefore you should be entitled to some portion of the property at question. So the mechanism is basically putting it on to the person who wants to claim through community property in our state, since we are not a community property state. This allows this time period, six months in one-- in a certain circumstance it's a year, but a short time period, so that it's not like you're just always wondering if someone's going to come out of the woodwork and do something, make some claim against your property. So there is a definite period of time in which you would come and you would make the claim, and then it would be adjudicated at that point. So I think that's, kind of how it works. Again, this bill is one that comes from the Uniform Law Commission, to try to make our laws make sense, in a similar way to other laws across the country. Thank you, Mr. President.

ARCH: Mr. Clerk for an amendment.

ASSISTANT CLERK: Mr. President, Senator Machaela Cavanaugh had previously filed AM535, but I have a note she wishes to withdraw.

ARCH: Senator Conrad, you are recognized to speak.

CONRAD: Thank you, Mr. President. Good morning colleagues. I wanted to thank Senator de Boer for bringing forward this measure and for her excellent explanation of a complex topic. But I wanted to make sure to lift up, and she's already talked a bit about this, about how important it is to work with our uniform law commissioners who do an excellent job representing our interests from the state of Nebraska and our active and engaged participants in the Uniform Law Commission that each state sends a delegation to, and that helps to provide model legislation, uniform legislation, in key areas of the law so that there is more uniformity, there is more clarity. There are [RECORDED MALFUNCTION] to ensure that our laws are sound and modernized and that they, to a certain degree, harmonize with our sister states in key areas as well. I have a measure that I've introduced this session in collaboration with the UCC, with the Uniform Law Commissioners, in regards to updating a really important measure known as an anti-SLAPP bill, which helps to ensure protection for political speech and political expression, and ensuring that those who engage in controversial, controversial or provocative speech are not harassed or punished through the court systems. And it provides an adequate remedy in that regard as well to advance free expression. I have had the opportunity to work with the Uniform Law Commissioners during my previous service in the Legislature as well, and had carried many bills on their behalf. Sometimes they're more related to technical issues in financial services or banking. Sometimes they touch upon critical updates and family law areas, and they really have a wealth of expertise and information available to the states to help to strengthen our legal framework on a host of different issues. I know that Senator DeBoer has continued to work actively with the commissioners on this measure and I believe other measures that she's bringing, bringing forward as well in the Legislature this session. I know Senator Slama has had an opportunity to work with the Uniform Law Commissioners, and it's not always the case, but typically the case that the Uniform Law Commissioners will work with attorneys in the body to help to advance those more highly technical legal issues. But sometimes can, can represent a policy choice or a policy shift, but in many times are really about ensuring good governance. And so it's, it's always a really cool process to be a part of. And I know Senator DeBoer takes her work seriously in that regard. And I know Senator Slama and myself and others who've worked with the commissioners have, have felt the same way as they've engaged in that process. So I just want to give a shout out to Larry Ruth, Professor Willborn, I believe Joanne Pepperl, who have ably represented us as commissioners and, and

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bring these, these good ideas to life in the Nebraska legislative process. So with that, I look forward to hearing more about--

ARCH: One minute.

CONRAD: --Senator DeBoer's measure. Thank you, Mr. President. And, I'm planning to support LB83.

ARCH: Senator Dungan, you are recognized to speak.

DUNGAN: Thank you, Mr. President. Colleagues, I rise today, I guess, with some questions. I'm generally supportive of what I think LB83 is doing. And given the fact that I've had a chance to review the committee statement and I didn't see any opposition, I don't think this is a very contentious bill, but I'll admit I'm just trying to get up to speed on what it does and how it operates. I think there's a number of different components of it. I will be asking Senator DeBoer a couple of questions. But first, I just want to say I appreciate the efforts to put us in uniform code with other states and to make this just sort of function. I know on a number of things we can be an outlier, and it just helps to have uniformity to make sure that we interplay with other states well. That being said, would Senator DeBoer yield to a few questions?

ARCH: Senator DeBoer, will you yield?

DeBOER: I will.

DUNGAN: Thank you. So, Senator DeBoer, I'll be honest. This is not my legal wheelhouse. And I think you did a very good job of explaining it. But some of it still was a little bit confusing to me so I'm just going to ask a few clarifying questions. Does this then make Nebraska a community property state?

DeBOER: No. Actually, thank you very much for that question, because there was some concern by some folks before they had actually read the act. It does not make us community property state. We will continue to be a noncommunity property state. That's very important for the record. This does not in any way affect whether or not we are a community property state. We continue to be, after the passage of this, a noncommunity property state.

DUNGAN: Thank you. And I think that that is clarifying. And so what is-- and you're very good I think at explaining things simply so if you can try to put it in layman's terms because I think that's very

helpful-- what is the ill that this seeks to fix? Like, what is the problem that was happening that this is then fixing? And like what, what was the point of updating our statutes other than uniformity?

DeBOER: So OK. I think we need to have a clearer understanding of what a community property, noncommunity property state is. So a community property state assumes that if you are married, you and your lovely wife Britta were to buy a house in a community property state, which would be Arizona, for example, that you buy that house even if only you go down to Arizona, even if only you buy the property, even if only you sign for the property, you would still be jointly owning it. In Nebraska, if I want to buy a house here and I'm married, or let's say you and your lovely wife Britta would like to buy a house in Nebraska, then you would both have to sign in order to own, own it jointly. If just you went out and bought a house and you did not have your wife on the same title, right, then you would own it alone. So I don't want to use you and Britta now as an example, imagine spouse A and spouse B buy land in Arizona jointly. But only one person's name is on the title. It's community property. And now they move to Nebraska and one spouse dies. This is very sad. The question then would be, is the property held jointly between you and, and-- you and Britta's heirs, basically. Sorry, Britta. Or would it be held individually by you because only your name is on the title down in Arizona? So it's trying to tell the court, how do we sort out who owns the property after the death of one spouse if they buy property in a community property state? Now, you can fix it. So you can come back here and you can transfer it from community property and make it noncommunity property. I'm actually making this more confusing, I think.

DUNGAN: No, this is actually very helpful. I mean that seriously.

ARCH: One minute.

DeBOER: OK. So you can transfer from being community property to noncommunity property when you move to a noncommunity property state. But it's just to tell the, the folks who are dealing with the estates how do we sort out who owns and whether it's owned jointly by the estate of one spouse and the living spouse, or whether it's only owned by the spouse that has signed on to it, if that makes sense.

DUNGAN: That does. No, that's actually very clarifying, and I appreciate that. I'll have to tell Britta she got mentioned on the mic

multiple times today and, maybe get a printout of that record for her. Thank you, Senator DeBoer. Thank you, Mr. President.

ARCH: Senator DeBoer, you're recognized to speak.

DeBOER: OK. I'll see if I-- thank you, Mr. President. I'll see if I can make this slightly clearer. The problem is simply that because our laws of whether someone-- one spouse signing makes the property one spouse's or both spouses' are different than in other states. We just want to clarify what do you do if you're dealing with something that was bought when they were in a state that only one spouse had to sign for it? You don't have both spouses on the-- on the record. And so it comes up either in one of two cases: at divorce or at death of one of the spouses. So this is going to say, if there's a divorce, if there's the death of one of the spouses, this is how you deal that property with that property. Does it retain its status as community property? The answer is yes. So regardless, unless you do the transfer-- the process to-- and I can't remember what it's called-- reclassifying. Unless you go through the reclassifying process when you move to a noncommunity property state, then it would continue to be treated as community property in the state-- from the state that you originally were in when you purchased it that was a community property state. We're just trying to make sure that our courts know how to deal with this. The heirs know how to deal with this, that there's a remedy available to those who had a claim to a piece of property that was purchased under one of those very different ways of doing things, which is that one spouse signs but both spouse-- spouses own. So that's what we're trying to do. Hopefully now I've made it clear or made it worse perhaps. I don't know. But that's what's happening here. It does not make us a community property state. I know that there were some who were concerned about it. People are concerned about it because you don't-- there's a policy consideration that says you don't want to live in a state or you don't want to be in a state where one spouse can purchase all on their own something and then automatically half of it is given to the other spouse just by virtue of the fact that you're married. So the policy consideration was made a long time ago to say, we're not going to be a community property state. If you want both people to own it jointly, that's fine. You just have to both sign. There just has to be a record of that. There's more options in Nebraska, as it were, for how to own property in a marriage. So, yeah. OK. Well, if there are any further additional questions, I'm happy to answer them. Thank you, Mr. President.

ARCH: Senator Conrad, you are recognized to speak.

CONRAD: Thank you, Mr. President, and good morning again, colleagues. I apologize. In my truncated remarks on the, the mic the first go around that I didn't have an opportunity to give a full and well-deserved shout-out to all of the members of the Uniform Law Commission for Nebraska. So apologies for that. But special thanks to Arlen Beam, Marcia McClurg, James O'Connor, Joanne Pepperl, Harvey Perlman, Larry Ruth, Donald Swanson, and Steve Willborn. Many of these names will be familiar to members in this body and in those watching at home. Some of the, let's say, luminaries amongst luminaries of the Nebraska legal profession, who have ably served in a host of different leadership roles in our state university and our State Legislature, in private practice, in the bar association and at the law school as well, or in service as a jurist, a member of the judiciary, a judge as well. So this is a really esteemed set of attorneys with very divergent areas of expertise and practice. And Nebraska's really lucky to have this, this set of folks represent us in this important yet sometimes tedious work that happens in the you-- Uniform Law Commission. So it's also a very transparent process and a very active participation by other stakeholders and interest groups that, that helps to-- that help states to get it right on some of these thorny questions, in particular issues like the one brought forward by Senator DeBoer, which represents kind of, as I was conceptualizing it, talking to other members, kind of-- kind of an intersection between family law and probate law. And these issues are typically afforded to the states for jurisdiction in our system of federalism. And there can be very divergent approaches, state to state, about how we deal with family law issues or probate issues. And so knowing that we've got two distinct, complex areas of law, and then we have a wide variety of approaches to these areas, spheres of the law in our sister states, where we're trying to bring some guidance and uniformity for a legal decision-making process when these issues are presented in Nebraska. So I think Senator DeBoer may have already talked about this at least a little bit in her opening or in some other deliberations, but I was hoping perhaps that we could maybe just clarify for the record in particular. And colleagues, thanks for bearing with us. It's also a bit tedious sometimes to, to have to make the record in regard to, to measures like this; but, but it is important to our work. I was hoping perhaps that Senator DeBoer might yield to a few questions, just so that we can be really, really clear in the legislative record.

ARCH: Senator DeBoer, will you yield?

DeBOER: Yes.

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CONRAD: Thank you so much, Senator DeBoer. And I think you mentioned this, but I just wanted to reaffirm it or clarify how exactly is this process different from the current status quo in Nebraska?

DeBOER: Thank you for the question.

ARCH: One minute.

DeBOER: I will do my best to answer it so.

CONRAD: We can punch in again if we run out of time.

DeBOER: So my understanding is right now, there isn't any sort of default set of rules on what to do with the property that comes from community property states. There's also, I don't think there are timelines like this bill sets out for how long you have to sort of make the claim that it's community property. So I think that's one of the big changes that is added here. So this confers the jurisdiction to the probate court. So that's one thing. So it confers the community property disposition to the probate court. So conferring that jurisdiction is important.

CONRAD: Right.

DeBOER: And then it also sets up the timeline because, of course, we really want people to eventually be able to feel like, OK, I really own this house.

ARCH: Time, Senator.

CONRAD: Thank you, Mr. President.

ARCH: Senator Conrad, you are recognized to speak.

CONRAD: Thank you. Mr.-- thank you, Mr. President. And I was hoping that Senator DeBoer might continue to yield so that we could conclude our discussion and building the record on, on this point.

ARCH: Senator DeBoer, will you yield?

DeBOER: I will.

CONRAD: Thank you, Senator DeBoer. I know you got cut off midstream there. So if you want to continue or I'm happy to, to share some of the other questions we've been asked to discuss together to ensure clarity for the record.

DeBOER: So I think I was talking about how one of the important things that this bill does is it provides those deadlines so that people can get to a place where they, they know that the property has been sort of figured out, and we're not worried about whether it's going to suddenly come up with a lawsuit or something. Someone's going to come out of the woodwork. It gives definite and clear times for how long you have to intercede to try to make a claim under community property in another-- from another state.

CONRAD: Very good. Thank you so much, Senator DeBoer. On that point, I think it is maybe helpful to the body to think about this as perhaps not representing a significant policy shift or change, but rather about adopting and creating, clear framework for decision making when these issues arise for litigants, for everyday Nebraskans, and for their attorneys who are helping them to sort out these matters and then clear guidance to the courts as well about how to utilize that framework in sorting out these, these issues on the intersection of family law and probate. Is that a fair assessment?

DeBOER: I think that's a fair assessment.

CONRAD: All right. Very good. And then I think I was going to ask you to clarify exactly who made the determination. I think that you were clear in that in regards to that jurisdiction line in the probate court. So thank you very much. And I think that this popped up in your discussion with Senator Dungan earlier about what happens exactly to property when a spouse would die from an economic perspective. If you'd like to perhaps reaffirm that answer or, I apologize if it's redundant if you covered that already in the Britta example.

DeBOER: Yes. And first, I will apologize to Britta for killing her off, the, the newest spouse of a legislator. So congratulations to Senator Dungan and his wife. So-- oh, goodness. Now, I've forgotten the question.

CONRAD: Sure. Just what exactly would happen to property when a spouse would die from an economic perspective?

DeBOER: OK. So if the spouse dies, they have property that's held communally in another state, then the first thing that would happen is you would look to how are you going to distribute the property of the person who dies, just like you would anywhere else? And then there would be this time period that would begin to toll where someone could enter in and say, I have a claim through the deceased spouse to that

property in the commu-- by holding it jointly. So even if on its face it appears that only one spouse owns the property, once you realize that it's a community property state, then you have to deal with the fact that maybe actually both spouses own it. In fact, they do because it's community unless it's been reclassified. And so then, you'd go through the process. And there's a-- there's a whole lot of detail in here that I think we've lost some people and maybe we don't need to go through.

CONRAD: That's OK.

DeBOER: But there's a process which is, suffice to say, there's a process which is set out in the bill.

CONRAD: Very good. Thank you so much for reaffirming that framework for decision making, Senator DeBoer. I think it's a really important piece of legislation. And I know during my tenure in the Legislature, sometimes having to--

ARCH: One minute.

CONRAD: --build the record on these highly technical matters can be very challenging, even more challenging than free form debate in many instances, which I know kind of goes against the grain of our style as, as seasoned debaters to have to be this prescriptive in our comments on these highly technical matters. But thank you to the, our colleagues, for your indulgence and consideration as, as we work through these issues. Thanks again to the commissioners and thanks to Senator DeBoer.

ARCH: Seeing no one left in the queue, Senator DeBoer, you are welcome to close on LB83.

DeBOER: Thank you, Mr. President. Well, colleagues, sorry for this diversion down the rabbit hole of community property states and probate law in Nebraska. But I would appreciate your green vote on this bill. If there are lingering questions which anyone has about the bill or how it operates, I'm happy to answer them between General and Select. But again, this is a uniform law. It came out of committee 8-0. So, you know, the, the members of the Judiciary Committee, I'm very grateful for the fact that they have heard the hearing and deemed it worthy of their vote. So I would ask you to vote green. And if you have any lingering questions, please ask me between General and Select. Thank you, Mr. President.

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ARCH: Colleagues, the question before the body is the advancement of LB83 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record.

ASSISTANT CLERK: 39 ayes, 0 nays on the motion to advance the bill, Mr. President.

ARCH: LB83 does advance. Senator von Gillern would like to recognize some guests-- a guest today, Chris Mehafe, the executive director of the Mid-American Council of Boy Scouts of America, who is seated under the south balcony. Please stand and be recognized. Mr. Clerk, next item.

ASSISTANT CLERK: Mr. President, next bill, LB143 offered by Senator Conrad and others. It's a bill for an act relating to time; to provide for year-round daylight savings time as prescribed; to harmonize provisions; and repeal the original section. The bill was introduced last year on January 6. It was referred to the Government, Military and Veterans Affairs Committee. That committee reports the bill to General File with no committee amendments.

ARCH: Senator Conrad, you are welcome to open on LB143.

CONRAD: Thank you, Mr. President. Again, good morning, colleagues. So this is perhaps exhibit B for me in the 2024 legislative session about why it's a good idea to support Senator Briese's bills. So after Senator Briese, of course, was appointed and selected to become the State Treasurer, a host of different senators in the body have picked up the legislation that he had previously introduced to carry it forward. So in addition to LB16, which we took up together earlier this session, I also have been assigned to pick up LB143, which is a complete delight. Because much like the legislation that Senator Briese put forward in regards to LB16, when it comes to LB143, I and many of you were a swift and proud cosponsor of this important legislation. So-- and in addition to property taxes, maybe this is one of the areas that people best knew Senator Briese for his work as a member of this body. But trying to bring some clarity and some change that is long overdue to our current system of daylight savings time and turning those clocks forward and back multiple times a year, which provides a lot of consternation for a lot of Nebraskans and a lot of Americans from different perspectives, whether that be safety, whether that be health, whether that be economic. And there are also important issues contained herein regarding energy conservation. And finally, one thing that really, truly spoke to me when Senator Briese first

started working on this issue and continued his work on it was as a mom of two young kids, I had always, of course, as a young person and single adult, you know, kind of managed to, to work through the different time periods where we had changed our clocks each year, maybe grumbled a little bit in one direction or another, but was able to manage it fairly-- fairly, fairly well, like each of us. But once I had little ones, that, that management became a lot more challenging. I know a lot of the people with little ones, with young children in the room are shaking their heads or smiling or nodding, and those following at home probably the same. You work so hard to get those little ones on a good schedule when it comes to sleep, when it comes to nap, when it comes to daily activities for their health and managing your, your family's daily rhythms. And these, these two opportunities a year where we change our clocks either forward or back really, really wreak havoc on their little systems and, and those family rhythms during the day. So this issue took on much, much more importance to me, having worked through those issues with two little ones at home. So that being said, Mr. Speaker and members, LB143 is a bill to implement year-round daylight savings time in Nebraska. Again, want to thank Senator, then-Senator Tom Briese for his good work on this. So, colleagues, you may have seen some of the headlines that I have seen when I've had an opportunity to look at this issue. Consistently in poll after poll on the national level, well north of over 60% of Americans want to see a change to how we conduct daylight savings time and how we turn our clocks forward or back twice a year. Some of those polls even reach over 70% and span across the country and across the political spectrum and other demographics. That's why you've started to see really a flurry of activity in the states and on the federal level to reexamine this process. So the Sunshine Protection Act, in fact, did pass the Senate very recently to make daylight savings time permanent. However, it languished in the House and did not move forward. Nevertheless, over the last 5 years, 19 of our sister states have joined the movement to address these practices. And there have been in addition to 19 states that have moved in this direction through legislative bill or resolution, over 550 bills introduced at the state level to try and address these practices. So a lot of states have been grappling with these issues and are trying to bring some change to an issue that disrupts our lives and our circadian rhythms and our economy and our health. And I-- I'm hoping that Nebraska will finally join with our sister states to make these changes. Just from a kind of legal framework perspective, I want to be clear about a couple of other things. People, I think, generally know that our sister states in Hawaii and Arizona and then many U.S.

territories don't observe daylight savings time, but instead have opted to be on standard time year round. And this is important to note, not only as a well-known example, but it helps to illustrate the legal framework for the federal law as it stands today. Any state can make a decision to be-- to operate on standard time for the entirety of the year and to end the practice of fall back, spring ahead that we go through each fall and each spring. And that's what our sister states in Hawaii and Arizona have done for some time. However, if a state chooses to try and have daylight savings time be the permanent standard that we select in terms of our operation, that-- there is a framework in place under federal law to do so. And that is what our 19 other sister states have elected to do in regards to joining this movement and asking for the federal government to make changes and then providing some contingencies on that federal change and the resolution and commitment of adjacent sister states to move in that direction on, not only a state level, but a regional level as part of that national change. I've talked to many members who are interested in this bill, and I want to be as candid as I can be. I am personally not married to how we go about making this change. I see the clear benefits in the research and otherwise of staying on standard time year round. I understand there are competing interests in moving to daylight savings time on a permanent basis. I know my friend Senator Erdman has a floor amendment to adjust the approach that is present in LB143 as it stands. And again, I personally am not committed to only one way to go about this. I want to address the issue, and I want to stop changing our clocks in the fall and the spring, just to make it a little bit more manageable and a little bit better for the disruption that currently impacts our daily life rhythms, our circadian rhythms, and that has adverse consequences with these disruptive time changes, not only for, health issues and safety issues and parenting issues but that literally has clear and demonstrated a research out there in regards to safety issues as well. So I think this is going to be a really exciting debate. I see there's a very full queue. I'm happy to answer any questions and excited to see what path the body decides to take--

ARCH: One minute.

CONRAD: --in making this change. Thank you, Mr. President.

ARCH: Mr. Clerk, for an amendment.

ASSISTANT CLERK: Mr. President, Senator Erdman would offer FA207.

ARCH: Senator Erdman, you are recognized to open on your amendment.

ERDMAN: Thank you, Mr. President. I appreciate that. I spoke with Senator Conrad about this. I am in agreement that we shouldn't change the clock at all. We are in agreement on that. I want to bring your attention to the fact that if we did daylight savings time year-round, in December, when we have the shortest days of the year, the sunrise would be nearly 9:00 in Lincoln, Nebraska. So all of the children that attend school will be going to school in the dark. So I know that this probably won't receive the necessary support to move on. But I can tell you, Senator Conrad is exactly right. The majority of the people I have spoken with about this, they say, just leave it one time or the other. But I can tell you that, speaking from experience, when the sun comes up at 8:30 in western Nebraska and I have to do whatever I need to do outside before I go to town to do something else, it's in the dark. And so we will be, what shall I say, encouraged to support daylight savings time year-round by those who like to golf at 9 p.m. So my suggestion to those who like to have a lot of time after they get off work is start your business at 7:00 and close at 4:00. Why should the rest of us who don't golf or don't enjoy the evening, playtime, or whatever you want to call it, have to suffer in the darkness for 5 months out of the year? The other issue that you'll realize when you read through LB143, it not only changes to daylight savings time year-round, it also changes the date of when they start daylight savings time and when it ends. And that would be different than other states. So this is an opportunity for us to have a discussion about this. I'm not sure where the votes will land on this, but I can tell you that it's overwhelming the number of people who want to leave it the same time year-round. Arizona has chosen to stay the same time year-round. And whenever I call down there to talk to the people that I have worked with there, I have to figure out what time it is because they don't change. So we could adopt standard time year-round without approval of Congress. But when we do daylight savings time year-round, as Senator Conrad alluded to, we have to get approval from Congress. And who knows when that will come? So this is an opportunity for you to vote to keep your time the same year-round and help all those who have that fatigue and stress every time we change our clock. So I thought it was time for us to have a discussion about what we need to do here. And I would encourage you to adopt FA207. Thank you.

ARCH: Senator Dorn, you are recognized to speak.

DORN: Thank you, Mr. Speaker. First off, I want to, I call it, Senator Briese's not here anymore. This is one thing that he's dwelled on quite often while he was here is daylight savings time. Or the discussion of a time when I ran 6, 7, 8 years ago or whatever, this was one of the things that a lot of people talked about. This is one of the things that when I came up here my wife said, you need to address that when you go up there. And I found out they've had bills for every year before I was even up here to address something with it, and it hasn't passed or gone on. Senator Briese and now Senator Conrad brought this forward. Part of the bill is that so many states have to pass it or the federal government has to pass it to enact part of that. But one thing I do want to bring up and then I'll ask Senator Conrad a question, and, and Senator Erdman brought it up is this bill, though, would change the start date and the end date for daylight savings time. Under this bill, the start of daylight savings time would be moved from the first Sunday in April to the second Sunday in March. The end of daylight savings time would move from the last Sunday in October to the first Sunday in November. And would Senator Conrad yield to a question?

ARCH: Senator Conrad, will you yield?

CONRAD: Yes, yes, of course.

DORN: So I just listed those dates there that now will make us different than the rest of the country. Or what does that moving those dates, what will that or how will that affect us with the rest of the states around us, the rest of the country?

CONRAD: Thank you so much, Senator Dorn. I couldn't agree with your wife more. This is one that we have to bring across the finish line. And, you know, this was part of the measure that I picked up from Senator Briese, who was very well known for his work on this. And I-- my understanding in regards to that specific provision, and I'm very glad that you highlighted it on the committee statement, which does a great job of distilling these different issues, but you're right. The bill would as it stands, and it remains to be seen whether or not Senator Erdman's amendment would be adopted, which I'm very, very open-minded to, would really do 2 things. One, it would flag that we are going to opt to permanent daylight savings time being contingent upon a federal law change and the adoption of that by three adjacent states. In the meantime, the part that would go into effect immediately if this measure were successful would be to adjust the end date and the start date for the current daylight savings time. So I

think that was meant to provide some immediate action or softening of this current, more disruptive approach. I will go back and double-check to see if those other 19 states that have moved in the other direction have made that similar kind of weekly change in regards to, to how they're looking at it. But I know in the research I've read, as these measures have come through in Nebraska and on the federal level, most people agree they want to change. Most people have strong feelings about whether it's standard time or daylight savings time. There's been some discussion and good articles about there about maybe splitting the difference or adjusting the time frame. So everybody agrees we want to-- pretty much everybody, 70% of people agree we want to change it or get on the same path together. There's always some devil's in the details about how we go about it, but I'll triple-check how our sister states do that, Senator Dorn, and I will get back to you on it--

DORN: Get back to us.

CONRAD: --on the record.

DORN: Well, thank you very much for that. I will agree with you. I agree with Senator Erdman. Most of the people I visit with or visit with me, they would like it to be one time, not have the change.

ARCH: One minute.

DORN: You-- I know Senator Conrad talked about her young kids and how it affects them. Let me tell you, I don't know about, I call it the middle generation, but as you get older or you age, the people in my generation, it also affects us very much. And it's a challenge to overcome that. Sometimes it takes several days or weeks to, I call it, adjust your schedule and get back on the new time. So thank you very much.

ARCH: Senator Dungan, you are recognized to speak.

DUNGAN: Thank you, Mr. President. Colleagues, I'm just glad we're finally talking about the issues. Here with LB143 and FA207, we have, I think, an, an issue that I legitimately see both sides of. And I'm really interested in this debate. I would agree with Senators Dorn, Conrad, Erdman, and pretty much everyone else who's spoken that I think switching the time back and forth is the problem. That's really, I think, what causes us a lot of grief and it makes us all feel exhausted and tired. And the question is just which of these times

makes the most sense? I can say, personally, I absolutely hate leaving work and going home when it's 4:30 and dark outside. I see a lot of heads nodding yes, but it's also very hard to wake up in the morning when it's dark. So, you know, it's 6 one way, half a dozen the other. But if I had to pick, and the reason that I generally think I lean towards supporting LB143 without the amendment, is it's simply a lot harder to go home at the end of the night and do things when it's dark. That's more anecdotal, obviously, than some of the evidence that we've talked about already. But that's, I think, why I'm leaning that direction. But I understand it's a little bit more complicated than that. I was actually shocked at how many emails I got about this bill. Once it came up last year, Senator Briese introduced it. And there were 50-plus emails that I got about this on both sides of the issue. So, you know, all joking aside, I know it actually is very serious to a lot of people. So I did pull up just a couple of sort of the highlights of why adopting the permanent daylight saving time might be helpful, but also some of the cons, because I think it lends itself towards the debate. So one of the things that I thought was interesting is the U.S. Energy Department has actually shown that permanent daylight saving time can lower energy bills. By virtue of the fact that it's lighter later and we don't have to have our lights on as early, they've actually seen a huge decrease in energy costs. And so there's an actual cost savings to that. However, other studies that have been done have shown an increased risk of developing certain health issues with daylight saving time. And so, you know, I would have to dig a little bit deeper into that. But there have been some health issues, I think, related to the, the mismatch of the circadian rhythm with the actual daylight that's seen. So that's a problem. One pro to permanent daylight savings time is an actual, statistically significant reduction in crime. Both the Brookings Institute and the University of Washington Magazine have done studies and published studies that have shown increased daylight leads to a decrease in crime. So there's a community safety angle to this one as well that I think is interesting. Pro, there's more time spent outside. But a con is they've seen a lot of drop in workplace productivity. So I'm not going to go too deep into all of those right now. People can look those up. And I'm happy to talk to folks off the mic about them if they like. But I think there's a legitimate argument for both of these. Senator Erdman is correct that if we adopt permanent daylight savings time there will be certain points in the year where it's incredibly dark late in the morning. But just picking one over the other, I would prefer that to it being dark at 4:30 when we leave the Capitol and go home. One last thing I would say, this is more a note

for myself than anybody else, I constantly make this mistake. But I want to make clear for the record, as my rowmate, Senator John Cavanaugh, pointed out to me when I misstated it, it's daylight saving time. It is not possessive nor is it plural. Thank you, Mr. President.

ARCH: Senator Fredrickson, you are recognized to speak.

FREDRICKSON: Thank you, Mr. President. I, I don't know what I'm going to do with this bill to be completely frank with you. I am-- I'm rising today because I have a couple of questions. And similar to Senator Dungan, I've actually received a number of emails on this, and I'm kind of surprised at how many emails I've received on this. I'm intrigued by Senator Erdman's amendment actually. I want to kind of get some clarity from him about a couple of things as well, if he's still around. But one question I do have is that the bill-- so as Senator Conrad spoke in her introduction, this is all-- if we pass this bill, this will not go into effect unless the federal government, one, gives permission for this. And two, I think there's another contingency. It would require, I think, 3 adjacent states to us. So 3 border states would also have to change this. So that provides a little bit more clarity on, on that issue in terms of this is not an immediate effect thing. But one question I do have, and I think Senator Conrad was going to look into this a little bit more, is that it says in the meantime, this is a bill that would adjust the start of daylight savings time. So it would shift Nebraska's start of daylight savings time immediately. And so my question regarding that is that will there be a time when we are an hour ahead or an hour behind everyone around us for a week or two, which I think is sort of kind of has the potential to be a little confusing for, for folks? So that-- that's one question I had. And, you know, if we're going to move forward with this, I don't know if there's an amendment to sort of strike that if that's something that would be-- folks would be open to. I just think it would be cumbersome to Nebraskans especially, you know, I represent, a district in Omaha. We have a lot of folks who come in from Iowa, for example. If there's an hour difference in the two states, that, that can cause a little bit of confusion for a period of time. So that's one question I did have. I've learned-- I started looking a little bit more into the similar, similar to Senator Dungan. And I've also learned that there's a lot of passion about this issue. I mean, some actually refer to daylight savings time as false time. I've also learned that standard time is sometimes referred to as natural time or God's time. So-- and there are public health implications around this as well. But I wanted to ask, Senator Erdman,

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will you yield to a question about your amendment? Oh, if Senator Erdman will yield to a question.

ARCH: Senator Erdman, will you yield to a question?

ERDMAN: Yes, I would.

FREDRICKSON: So I want to make sure I understood you correctly. Would your-- your amendment would make it permanent daylight savings time or permanent standard time. What was the--

ERDMAN: Permanent standard time year-round.

FREDRICKSON: Same time. So it would go the opposite direction of what the original bill is--

ERDMAN: Right.

FREDRICKSON: --but it would still allow for that continuity.

ERDMAN: No changing-- no changing of the clock--

FREDRICKSON: OK.

ERDMAN: --standard time year-round. So when the sun is right straight up in the middle of the sky, it's 12:00.

FREDRICKSON: OK. That's helpful. Thank you. That's all I have. I will continue to listen to debate and see where I end up landing. Thank you, Mr. President.

ARCH: Senator Erdman, you are recognized to speak.

ERDMAN: Thank you, Mr. President. So I would-- I would assume the lawyers will agree with this. When you are losing on the policy discussion, you should discuss the facts. So here are the facts. OK? Doctors and scientists argue that standard time is actually better for your health. Our internal clock is better aligned with getting light in the morning, which in turn sets us up for a better sleep cycle at night. That is the facts. So I don't know why it's so hard to understand the facts, but sometimes it doesn't make sense. And maybe that's because we don't want to listen to what they have to say. But I would think that these scientists and doctors maybe have researched this and understand the significance of making these time changes and what it does to our bodies. And so if we want to fix it and we have

the authority to fix it without approval from the federal government, it would just make sense to me that we go with standard time year-round. We wouldn't be the only one because Arizona stays the same. I think Hawaii does as well. And I looked up the 19 states that have already adopted daylight savings time, and I'm surprised by some of those, and especially Montana. But this is an opportunity for us to do what the people want is to fix their clock year-round. And so I would encourage you to listen to what these doctors and scientists said. They are the experts on this. And let's give people a chance to be healthy. Let's keep our clocks the same. Thank you.

ARCH: Senator DeBoer, you are recognized to speak.

DeBOER: Thank you, Mr. President. So I'm one of the 30%, I guess, that doesn't mind so much the changing of the time. But having seen the writing on the wall, now I'm engaged in whether it's better to be all the time on daylight savings time or, sorry, daylight saving time, or all of the time on standard time. My understanding is that it's sort of how time-- I mean, we think of time now is such a essential thing that it just is. But, of course, time is a social construct, and even the time zones that we have were created by the railroads is my understanding. And so whether we're at 11:50 now or 12:50 now or 9:50 or whatever time we are, you know, it's kind of constructed to begin with. So trying to figure out what the best time is is a little difficult. So I'm trying to understand how the bill operates. So I wonder if Senator Conrad would yield to a question.

ARCH: Senator Conrad, will you yield?

CONRAD: Yes, yes, of course. And I apologize to Senator DeBoer. I was engaged in conversation. So if you posed the question, I may-- you may need to rephrase the question, please.

DeBOER: I haven't. I, I wanted to know-- so it seems that there's two parts of the bill, is that correct?

CONRAD: That's right.

DeBOER: One that says if all of our-- is it all of our neighbors or most of our neighbors or, or how many other states around us have to adopt it for the year-round time to be in effect?

CONRAD: Yep. So for that component that it really works like this. So if LB143 were to move forward as Senator Briese initially proposed it, it would follow this framework under federal law for how we can go

about effectuating this change. And it would require Nebraska to signal our support for making this change by passing LB143 and then the changes would not be impactful, would not be realized or recognized by Nebraskans until 2 other things happen. One, 3 adjacent states must also signal their support to move therein through legislative resolution or legislative bill. Currently, Colorado and Wyoming have already done that, so we would still need one more adjacent state to move in that direction. And I understand that measures are moving through other adjacent neighboring states. Additionally, as Senator Erdman correctly noted, it would then also require federal approval. So there's really 2 contingencies in the approach that LB143 utilizes: action in 3 adjacent states to have already acted so we need 1 more to go and, movement on the federal level.

DeBOER: So, I mean, I know other states have done different things than everybody else on daylight savings. What is the likelihood that the feds approve if we and some other states wanted to change our time?

CONRAD: Yeah, that's a good question, Senator DeBoer. I think it would probably be hard to quantify what the odds might be for congressional action, but some things I think perhaps might be instructive in that regard. One, you have seen measure, I think it was championed by Senator Marco Rubio, to make daylight savings time permanent and entitled the Sunshine Protection Act, which was successful in the Senate in very recent years and then companion bill language in the House. So there was no action. But, you know, you know--

ARCH: One minute.

CONRAD: --how mired our federal lawmaking bodies are in partisan dysfunction and disagreement. So the fact that that did move through the Senate is a good sign, is a welcome sign. And I think more and more-- when more and more states move in that direction, it will provide more impetus for both the House and the Senate to act in this regard. So I, I couldn't put it into betting odds about whether or not the Congress will act. But it does seem, you know, really, there's just a tidal wave of movement within the states to address this, with 19 states going in that direction and in about 5-- in the last 5 years.

DeBOER: OK. And then there's another aspect of the bill--

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CONRAD: That's right.

DeBOER: --that before any of that went into place, that then they would change the dates. Is that right?

CONRAD: Yes. You're right. And Senator Dorn asked about this, and I appreciate the opportunity because others have asked about this off the mic. And I fear that I've muddied--

ARCH: Time, Senator.

CONRAD: --the waters.

ARCH: Senator McDonnell would like to recognize a guest located under the south balcony, Ellen Hung, the state investment officer. Welcome to your Legislature. Mr. Clerk, for items.

ASSISTANT CLERK: Thank you, Mr. President. I have notice of committee hearing from the Judiciary Committee and the Retirement Systems Committee. In addition, amendments to be printed: Senator Ibach to LB218; Senator Walz to LB285; Senator Albrecht to LB442A; Senator Halloran to LB442; Senator von Gillern to LB1023. In addition, Senator Wayne had previously filed an amendment to rerefer LB1093 to the Judiciary Committee, but he wishes to withdraw that. Name adds: Senator Fredrickson to LB184; Senator Machaela Cavanaugh, LB285; Senator McDonnell to LB307; Senator Conrad, LB856; Senator Lippincott to LB965, LB 973; Senator Machaela Cavanaugh to LB984; Senator Lippincott to LB1001; Senator Linehan to LB1035; Senator Vargas to LB1035, as well as Senator Wishart to LB1035; Senator Lippincott to LB1037. Senator Hunt to withdraw from LR14CA. In addition, announcements: The Reference Committee will meet in Room 2102 upon adjournment. The Government Committee will hold an Executive Session today following their hearing in Room 1507. Revenue will hold an Executive Session in Room 1524 at the conclusion of today's hearing. And finally, priority motion. Senator Brandt would move to adjourn until Friday, January 26, 2024, at 9:00 a.m.

ARCH: Colleagues, you have heard the motion. It is to adjourn. All those in favor say aye. Opposed, nay. We are adjourned.